

AFFIDAVIT OF KEVIN O'NEIL

05-1684-CBS

I, Kevin O'Neil,, being duly sworn, hereby depose and state as follows:

1. I am an "investigative or law enforcement officer of the United States" within the meaning of Section 2510(7) of Title 18, United States Code, that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Section 2516, Title 18, United States Code.

2. I am a State Trooper for the Massachusetts State Police ("MSP"), and am currently assigned to the United States Drug Enforcement Administration ("DEA") as a deputized Task Force Officer. I have been a State Trooper with the MSP for the last twelve and one-half years. I have been assigned to the DEA in as a Task Force Officer for nearly four years. My primary duties at the DEA include the investigation of organized narcotics traffickers. I have been involved in approximately ten investigations involving the organized domestic and international importation and distribution of kilogram quantities of cocaine and heroin. As a result of my assignments, I have received extensive specialized training in the field of narcotics identification and investigation.

3. I submit this affidavit in support of a criminal complaint charging ANGEL RIVERA, a/k/a "Pinto", a/k/a "Hector Colon" (hereinafter "RIVERA") and WILGEN ANIBAL BRITO-MELO, a/k/a

"Jose Concepcion Navarro" (hereinafter ("BRITO-MELO")) with conspiracy to possess with intent to distribute cocaine, in violation of 21 U.S.C. § 846. This complaint alleges that the conspiracy involved 5 kilograms or more of a mixture or substance containing a detectable amount of cocaine hydrochloride, a Schedule II controlled substance, in violation of 21, United States Code, Section 841(b)(1)(A).

4. The statements contained in this affidavit are based on my participation in the investigation of the criminal activity described herein, as well as information provided to me by other federal agents and police officers involved in this and related investigations, as well as my experience, training, and background as a DEA Task Force Officer and police officer. This affidavit does not discuss all of the evidence obtained during the investigation, but only that which I believe is necessary to establish probable cause for the arrest of RIVERA and BRITO-MELO based on the charges set forth in the attached criminal complaint.

A. INTRODUCTION

5. On July 8, 2005, I applied for a search warrant from the United States District Court for the District of Massachusetts for an apartment and a garage that, for the reasons discussed below, I believed to be "stash" locations used by RIVERA and BRITO-MELO in connection with their drug trafficking

business. Pursuant to that request, on July 8, 2005, the Honorable Chief Magistrate Judge Charles B. Swartwood III issued search warrants for (a) Apartment #705 located at 290 Quarry Street, Quincy, MA, which is part of an apartment complex called "Avalon Summit West" (hereinafter the "Target Apartment"); and (b) a garage, Door #9, located at 290 Quarry Street, Quincy, MA, and a white Volvo station wagon to be inside the garage (the "Target Garage").

6. The search warrants were executed on July 8, 2005. Among other things, agents seized the following items from the Target Apartment: approximately 7 kilograms of cocaine; a loaded 9 mm handgun, with an obliterated serial number; approximately \$50,000 in U.S. Currency; a cocaine press, cocaine cutting agent, a scale, and packaging materials. Agents also seized a checkbook from Citizen's Bank in the name Jose Navarro (the alias used by BRITO-MELO during the investigation and upon his arrest on July 7, 2005). Agents discovered a hydraulically-operated hidden compartment under the backseat of the white Volvo station wagon inside the Target Garage. The hidden compartment contained numerous air freshners but was otherwise empty. The Target Apartment and Target Garage have been rented to RIVERA since September 6, 2004.

B. BACKGROUND OF THE INVESTIGATION

7. Since approximately January 2005, I, along with DEA Special Agents, DEA Task Force personnel, and other law enforcement personnel, have been investigating the criminal activities of BRITO-MELO and RIVERA, and others who distribute illegal drugs in the Boston, Lynn and Lawrence area of Massachusetts. The investigation was initiated based on information provided by a confidential source (hereinafter the "CS") regarding the trafficking of cocaine by BRITO-MELO and others in the Massachusetts area. For approximately 60 days, from on or about March 25, 2005 to on or about May 16, 2005, the DEA and other law enforcement officers maintained and monitored a Court-authorized federal wiretap of the telephone of the telephone used by BRITO-MELO, Nextel cellular telephone number (617) 590-5820 (the "BRITO-MELO Phone").

8. During April and May 2005, BRITO-MELO and RIVERA spoke regularly and intercepted calls over the BRITO-MELO Phone revealed that BRITO-MELO and RIVERA (who BRITO-MELO referred to as "Pinto") are in the cocaine trafficking business together.¹

9. For example, on May 7, 2005, BRITO-MELO called RIVERA, who indicated that he was on his way back from New York and had spent the night in Providence, RI. BRITO-MELO told RIVERA to

¹ The intercepted calls were in Spanish and were interpreted by court-certified interpreters.

tell an unidentified third party that they have to get together in order to "do that" because BRITO-MELO had to buy "that thing." BRITO-MELO then said he needed "that thing" from the unidentified male "today, without fail." RIVERA asked if there had "been anything" yet, to which BRITO-MELO replied that there had not. Based on my training and experience, and other intercepted calls, I believe that RIVERA was asking about the supply of drugs and BRITO-MELO was saying that they did not have any at the moment.

10. On the morning of April 16, 2005, based on intercepted calls concerning an apparent stash house, agents set up surveillance in the area of the Furnace Brook Parkway in Quincy, MA. Surveillance agents subsequently saw BRITO-MELO driving an Oldsmobile Intrigue, Massachusetts registration 63TT49 (hereinafter the "Intrigue"), in the area.² Surveillance agents followed the Intrigue to the rear parking of 290 Quarry Street Quincy, MA. A short time later, the Intrigue left the area and I saw RIVERA walk across the parking lot of 290 Quarry Street.

11. On April 23, 2005, BRITO-MELO called RIVERA and asked RIVERA to run an "errand" and told him that a guy had called him (BRITO-MELO) to pick up some "tickets" (which I know to be a common term used by drug dealers to describe a debt of money) from East Boston. BRITO-MELO said the "thin guy" had been

² According to Massachusetts Registry of Motor Vehicle ("RMV") records the Intrigue is registered to Jose NAVARRO.

calling all day for BRITO-MELO to pick up "that money." A short time later, BRITO-MELO contacted "FELIPE", stating that he needed FELIPE to run an errand. FELIPE reminded BRITO-MELO that they had agreed to meet to discuss what FELIPE described as "something important," but that BRITO-MELO never showed. BRITO-MELO replied that he was working on that. BRITO-MELO then asked if FELIPE had a car there, to which FELIPE responded that he did, adding that it (the car) was the reason he had been calling BRITO-MELO. FELIPE then invited BRITO-MELO over to talk. BRITO-MELO stated that he too was waiting on "some cars", and asked FELIPE if he understood.³

12. BRITO-MELO then asked if FELIPE's friend had cars or did he want cars. FELIPE expressed his concern for discussing the matter over the phone, suggesting he and BRITO-MELO meet to talk about it in person. BRITO-MELO then asked if FELIPE could run an errand, that he had been getting calls, that the guy had been calling him desperately since the day before. FELIPE agreed to run the errand, acknowledging that he knew where the guy lived. BRITO-MELO stated that he would be calling the guy shortly, that FELIPE should call BRITO-MELO when he planned to head over there. FELIPE stated that he would be leaving right

³ In previously intercepted conversations, BRITO-MELO and his associates have used the terms "cars" and "crashed cars" as what is believed to be code for cocaine in various stages of street-readiness.

away. BRITO-MELO then gave FELIPE a telephone number.

13. BRITO-MELO later contacted RIVERA and inquired about the status of "that guy," asking what he (that guy) had done. RIVERA replied that the guy had told him to call if RIVERA would be going there (unspecified location), and noted that the guy had "18 pesos" and that between that day and the next would try to put together "20." BRITO-MELO asked about "the old stuff," to which PINTO replied that he already had "that". RIVERA asked about the errand they had discussed earlier and BRITO-MELO stated that he had sent that guy (FELIPE) to pick that up (the money) and that he (BRITO-MELO) wanted to have RIVERA meet FELIPE to "secure that."

14. A series of calls between BRITO-MELO, FELIPE, and RIVERA follow, with BRITO-MELO coordinating the pick up of what agents believed was an amount of money from FELIPE to RIVERA. FELIPE, driving "VICTOR's SUV" was to meet RIVERA, driving a white Ford Taurus, at a gas station off exit 8 on Route 93. Surveillance was established in the area of Furnace Brook Rotary and Copeland Street in Quincy, MA in anticipation of the above meeting.

15. At approximately 6:04 p.m., BRITO-MELO instructed RIVERA to leave to meet FELIPE and to put "it" (the money) away for him. At approximately 6:20 p.m. agents observed the a white Ford Taurus with Massachusetts registration 50JJ17 (the "White

Taurus"), pull into the Mobil gas station off Furnace Brook Parkway at Copeland Street in Quincy. Shortly after the White Taurus parked on the left side of the lot, agents observed RIVERA get out of the car and enter the convenience store at the Mobile station. Approximately two minutes later, agents observed a white Toyota Rav4 with Massachusetts registration 38VT05 (the "Rav4"), pull into the Mobil station and back into a parking space next to the White Taurus. RIVERA exited the convenience store, put some things in the White Taurus, and then opened the passenger door of the Rav4 and removed a red and white paper bag with handles. RIVERA hefted the bag into the passenger side of the White Taurus. Shortly thereafter, the Rav4 departed the area. Surveillance agents followed the White Taurus to Quarry Street in Quincy. At about 6:25 p.m., agents observed RIVERA park the White Taurus in the rear lot of 290 Quarry Street, where he exited the vehicle carrying the paper bag and entered into the rear of 290 Quarry Street.

C. BRITO-MELO AND RIVERA USE THE TARGET APARTMENT AND THE TARGET GARAGE AS STASH LOCATIONS

16. Agents obtained the "Apartment Lease Agreement" for the Target Apartment (Apartment #705, 290 Quarry Street, Quincy, MA) from AvalonBay Communities Inc., the property manager of the Target Apartment and the Target Garage, and Avalon Summit (the larger apartment complex). According to the Apartment Lease Agreement, and the property manager, the Target Apartment and

Target Garage have been leased to RIVERA since September 6, 2004 (the lease expires on September 6, 2005). According to the Lease Agreement, the total rent for the Target Apartment and Target Garage is \$1,135 per month, with a security deposit of \$1,135.

17. During the investigation, RIVERA resided at 42 Whitfield Street, Apt. 20, Dorchester, MA, and often frequented the Target Apartment and Target Garage for short periods of time. According to records obtained from RIVERA upon his arrest on July 7, 2005, RIVERA receives Section 8 housing at 42 Whitfield Street, Apt. 20, Dorchester, MA, and his portion of the rent is \$195 per month. When he rented the Target Apartment and Target Garage, RIVERA left a photocopy of a Massachusetts driver's license with the name ANGEL RESTO-RIVERA, 42 Whitfield Street, Apt. 20, Dorchester, MA.⁴ When he was under surveillance, RIVERA typically returned to 42 Whitfield Street at night.⁵

18. On April 26, 2005, agents observed BRITO-MELO park in the rear parking lot of 290 Quarry Street and an unknown Hispanic male exit the rear door of 290 Quarry Street. On May 2, 2005, agents obtained an authorization Order from the United States District Court for the District of Massachusetts to install a

⁴ A review of MA RMV records confirmed that RIVERA listed 42 Whitefield Street, Apt. 20, Dorchester, MA, as his address for his driver's license.

⁵ On July 7, 2005, RIVERA told agents that Deborah Miranda is his girlfriend.

Global Positioning System ("GPS") device on the Intrigue. On May 3, 2005, agents installed the GPS on the Intrigue.

19. In early May 2005, agents rented apartment 201 at 290 Quarry Street (which faces the rear parking lot) in order to facilitate surveillance. On May 5, 2005, a "pole" camera was installed in apartment 201 and was positioned to view the activity around the Target Garage. Agents began recording activity that day.

20. On May 9, 2005, at about 11 a.m., agents saw the White Taurus, which agents had seen RIVERA driving on numerous occasions, arrive at 290 Quarry Street and park near the Target Garage. A review of the video surveillance tape of May 9, 2005, showed that, at about 5:47 p.m., a white Volvo station wagon, with an unknown registration (the "White Volvo"), backed into the Target Garage. The door to the Target Garage closed. At about 6 p.m., the door to the Target Garage opened and an unknown male, who could not be seen clearly on the video, came out pulling a large black suit case on wheels. At about 6:36 p.m., a white Taurus left the parking lot from the same area where RIVERA's White Taurus had been parked. At 6:50 p.m., agents confirmed that RIVERA's White Taurus was no longer in the parking lot.

21. On May 17, 2005, at about 9:35 p.m., I saw the White Taurus park in the rear of 290 Quarry Street. I then saw RIVERA get out of the White Taurus and take two weighted bags, one white

and one black, from the White Taurus. I then saw RIVERA continually look around the parking lot as he walked quickly to 290 Quarry Street and enter the building from the rear door. At about 9:55 p.m., I saw a black Infiniti I30, with Massachusetts registration 14MV27, registered to John F. Villavicencio (the "Black Infiniti"), park in the rear of 290 Quarry Street. I then saw a Hispanic male, later identified as MALVIN O. VELASQUEZ, get out of the Black Infiniti carrying a brown paper bag with handles. VELASQUEZ walked quickly across the lot, continually looking around, and entered the rear door of 290 Quarry Street.

22. On May 18, 2005, at about 10 a.m., agents saw the White Taurus and the Black Infiniti in the rear parking lot of 290 Quarry Street. A little before noon, I saw RIVERA and VELASQUEZ come out of 290 Quarry Street. RIVERA was carrying what appeared to be the same brown paper bag that VELASQUEZ had brought the night before. They got into the Black Infiniti and drove to 42 Whitfield Street in Dorchester, where RIVERA got out and went into the building. The Black Infiniti drove away. At about 12:05 p.m., MSP Trooper John Fallon of the K-9 Unit, stopped the Black Infiniti, driven by VELASQUEZ, on American Legion Parkway for motor vehicle violations. During a consent search of the Black Infiniti, Trooper Fallon found a hidden motorized compartment under the center console. Trooper Fallon's K-9, which is certified in detection of narcotic odor, made a positive

alert for the presence of narcotic odor in the area of the console. The K-9 also made a positive alert in the backseat where the brown paper bag was located. The Black Infiniti was towed to the MSP barracks in Milton, MA.

23. Later that day, myself and Trooper Fallon opened the hidden compartment. Inside were numerous air freshners. We also opened the brown paper bag, which had clothes, a cell phone, a calculator, and numerous papers. Based on my training and experience, I am aware that drug traffickers often use hidden compartments in cars to conceal and transport illegal narcotics. I am also aware that drug traffickers often store illegal narcotics together air freshners, and other similar items, to mask the smell of the illegal narcotics from detection.

24. On the morning of June 22, 2005, DEA SA Kevin Hersey saw RIVERA, driving the White Taurus, leave 290 Quarry Street. SA Hersey followed the White Taurus and saw it come to a complete stop, in an apparent counter surveillance maneuver, and let several other cars pass. SA Hersey subsequently lost the White Taurus in traffic. Later that afternoon, SA Hersey saw the White Taurus park in the rear lot of 290 Quarry Street and carry what appeared to be a weighted black plastic bag into 290 Quarry Street. About 30 minutes later, SA Hersey saw RIVERA come out of 290 Quarry Street carrying the black plastic bag and get into a

blue Saab, MA registration 58XP05 (the "Blue Saab").⁶ Agents followed the Blue Saab and saw RIVERA using a cell phone on numerous occasions during the ride. At about 5:20 p.m., I saw RIVERA arrive in the Blue Saab and park across from 71 Crawford Street in Roxbury. RIVERA went into a building on Crawford Street and came out about 30 minutes later with an unknown Hispanic male. Neither was carrying the black plastic bag. The unknown male got into a Porsche Boxster and RIVERA left in the Blue Saab. Agents followed RIVERA, who again engaged in counter surveillance maneuvers, cutting through a gas station, stopping to let cars go by, looking in his mirrors, and squaring the block.

25. A review of the surveillance video for July 1, 2005, showed that, at about 10 a.m., an unknown male went into the Target Garage, and a short time later the White Volvo exited. At about 9:30 p.m., the White Volvo returned and backed into the Target Garage and an unknown male exited. On the following morning, at about 6 a.m., RIVERA walked across the parking lot of 290 Quarry Street pulling a large black suitcase and went into the Target Garage. A short time later, the White Volvo pulled out and drove from the area.

⁶ According to MA RMV records, both the White Taurus and the Blue Saab are registered to Deborah Miranda, 808 Tremont Street, Boston, MA. On July 7, 2005, RIVERA told agents that the White Taurus and the Bleu Saab belong to his girlfriend, Deborah Miranda.

D. THE ARREST OF RIVERA AND BRITO-MELO

26. On July 6, 2005, at about 7:15 p.m., SA Hersey saw the White Volvo back into the Target Garage. SA Hersey then saw Rivera exit the Target Garage, talk with an unknown Hispanic male (the "UM") in a grey Pacifica, MA registration 23PR41 (registered to Thrifty Car Rental) (the "Pacifica"), and go into 290 Quarry Street with the UM. A short time later, RIVERA and the UM came out and got into the Pacifica. Agents followed the Pacifica and RIVERA, who was driving, again engaged in counter surveillance maneuvers and agents lost the surveillance.

27. Later that night, I saw the Pacifica, with RIVERA driving, stop in front of 42 Whitfield Street in Dorchester. RIVERA got out of the Pacifica and into the Blue Saab. Later that night, RIVERA returned to 290 Quarry Street in the Blue Saab. RIVERA went into 290 Quarry Street and, a short time later, came out of the building and went into the Target Garage. Before the garage door closed, agents saw RIVERA jockeying the White Volvo forward and backward in the Target Garage. The Target Garage door closed and RIVERA came out and went into 290 Quarry Street. At about 1 a.m., agents saw the Blue Saab parked at 42 Whitfield Street in Dorchester.

28. Based on a review of the video surveillance, on July 7, 2005, at about 5:45 a.m., the Blue Saab arrived at the parking lot of 290 Quarry Street in Quincy. A short time later, RIVERA

entered the Target Garage. About five minutes later, RIVERA came out of the Target Garage carrying a black gym bag, and walked toward the Blue Saab (where he left the view of the video). Agents arrived at 8 a.m. and the Blue Saab was no longer in the parking lot.

29. On July 7, 2005, at about 9:30 p.m., agents saw the Blue Saab arrive at 290 Quarry Street and park in the parking lot. RIVERA got out of the Blue Saab carrying a dark colored square bag and went into the rear door of 290 Quarry Street. About ten minutes later, RIVERA came out of 290 Quarry Street carrying a different bag and opened the rear hatch of the Blue Saab. BRITO-MELO then pulled up in the White Taurus. RIVERA took a white bag from the rear hatch of the Blue Saab and put it on the right rear seat of the White Taurus. RIVERA got into the driver's side of the White Taurus, while BRITO-MELO slid over to the passenger side, and they drove away.

30. Agents followed the White Taurus onto Route 93 South where it was stopped by MSP Trooper Charles Kane for weaving in between traffic lanes. RIVERA provided Trooper Kane with a New Hampshire driver's license in the name of "Hector Colon". BRITO-MELO identified himself as "Concepcion Jose Navarro". RIVERA gave Trooper Kane consent to search the White Taurus (no contraband was found). Another MSP trooper arrived and began running a license and warrant check for the names given by RIVERA

and BRITO-MELO.

31. Trooper Kane, myself, and other agents returned to 290 Quarry Street. Trooper Kane had his K-9 (the same one referenced earlier in this affidavit) walk around the Blue Saab. The K-9 alerted positively to the rear hatch area of the Blue Saab. I then had RIVERA, BRITO-MELO, and the White Taurus brought back to 290 Quarry Street. When they arrived, MSP Trooper Jaime Cepero, who is fluent in Spanish, talked with RIVERA and BRITO-MELO separately in Spanish. RIVERA told Trooper Cepero that his name was Hector Colon and that the Blue Saab and the White Taurus belonged to his girlfriend, Deborah Miranda. Colon said he had just driven down from New Hampshire to meet his friend (BRITO-MELO) and he was going to loan him the White Taurus. Upon questioning about why the Blue Saab was left at 290 Quarry Street, RIVERA said he had a friend who lived in the building. RIVERA was unable to provide the friend's full name. RIVERA said the friend lived in apartment 704.

32. RIVERA was shown a set of keys. RIVERA said that the keys were his, and that one of the keys was for the Blue Saab, two were for his house in New Hampshire, two were for his mailboxes and the rest belonged to his boss for buildings he owns in Brighton. I recognized the key chain and two of the keys as similar to those that had been given to the agents for the entrance to 290 Quarry Street and the apartment we rented.

Trooper Cepero asked RIVERA for consent to search the Blue Saab and RIVERA provided consent and signed a written consent form.

33. I searched the Saab and found a hidden motorized compartment in the trunk area behind the rear seat. In the compartment, I found approximately one ounce of a white substance wrapped in tinfoil that field tested positive for cocaine hydrochloride. I also found three sets of identifications, which appeared to be Puerto Rican birth certificates and social security cards.

34. RIVERA was placed under arrest by state authorities for trafficking cocaine. BRITO-MELO was placed under arrest due to an outstanding INS detainer for illegal entry of an illegal alien. Agents found mail in the White Taurus addressed to 290 Quarry Street, Apartment 705, Quincy, MA, and a bank statement from Citizen's Bank in the name "Jose Navarro". Agents took the set of keys that RIVERA said were his and used one of those keys to enter the back door of 290 Quarry Street and opened the door to the Target Apartment with another of the keys. Agents went into the Target Apartment to secure the premises and ensure that no one was in the apartment (for officer safety) while they obtained a search warrant. Agents did not search the apartment and did not see any contraband in plain view. An officer was then posted outside the door to the Target Apartment while agents obtained a search warrant. Agents then tried RIVERA's key on

Apartment 704 and it did not work.

35. Trooper Kane walked his K-9 past several of the doors in the garage, including the door (number 9) to the Target Garage. The K-9 alerted to the door of the Target Garage.

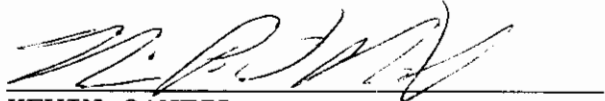
E. THE SEARCH OF THE TARGET APARTMENT AND TARGET GARAGE

36. On July 8, 2005, Chief Magistrate Judge Charles B. Swartwood III, of the United States District Court for the District of Massachusetts, authorized search warrants for the Target Apartment and the Target Garage. The search warrants were executed on July 8, 2005. Among other things, agents seized the following items from the Target Apartment: approximately 7 kilograms of a substance that field tested positive for cocaine hydrochloride (from a hall closet); a loaded 9 mm handgun, with an obliterated serial number (from the bedside table in the bedroom); approximately \$50,000 in U.S. Currency (from a laundry basket mixed in with clothes); a cocaine press, cocaine cutting agent, a scale, and packaging materials (from the kitchen). Agents also seized a checkbook from Citizen's Bank in the name Jose Navarro (the same bank account as the bank statements seized from the White Taurus on July 7, 2005). Inside the Target Garage, agents found a hydraulically-operated hidden compartment under the backseat of the white Volvo station wagon. The hidden compartment contained numerous air freshners but was otherwise empty.

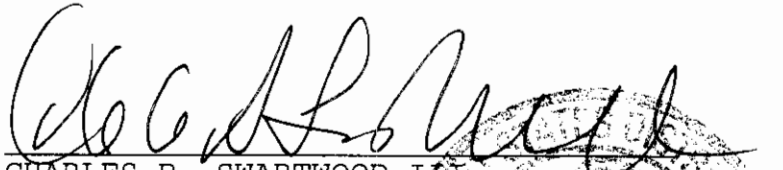
CONCLUSION

Based on the information contained in this affidavit, all of which is true and accurate to the best of my knowledge, information and belief, I believe that there is probable cause to believe that, from a time unknown, but at least by in or about April 2005, to on or about July 8, 2005, WILGEN ANIBAL BRITO-MELO, a/k/a "Jose Concepcion Navarro" and ANGEL RIVERA, a/k/a "Pinto", a/k/a "Hector Colon", have conspired with each other and others to possess with intent to distribute cocaine. I further believe that there is probable cause to believe that the conspiracy alleged herein involved 5 kilograms or more of a mixture or substance containing a detectable amount of cocaine hydrochloride.

Signed under the pain and penalties of perjury this 11th day of July 2005.


KEVIN O'NEIL
Task Force Officer
Drug Enforcement Administration

Sworn and subscribed to before me this 11th day of July, 2005 at Boston, Massachusetts.


CHARLES B. SWARTWOOD III
UNITED STATES CHIEF MAGISTRATE JUDGE

